

REMARKS

Claims 1-4, 6, 7, 9-12, 14 and 23-31 are pending. Claims 1, 9, 23, 28 and 31 have been amended.

I. Claim 31 is Allowable

The Office has objected to claim 31 because of dependency from claim 38 rather than claim 28. With this response, the objection to claim 31 is overcome by amendment and should be withdrawn.

II. Claims 1-4, 6-7, 9-12, 14, 23-26 and 28-31 Are Allowable

The Office has rejected claims 1-4, 6-7, 9-12, 14, 23-26 and 28-31, at paragraph 5 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,195,543 ("Granberg") in view of U.S. Patent No. 7,068,997 ("Benco"). Applicants respectfully traverse the rejections.

A. Claims 1-4, 6 and 7

The cited portions of Granberg and Benco, separately or in combination, fail to disclose or suggest the specific combination of claim 1. For example, Granberg and Benco do not disclose determining a first real-time, cost-per-unit-time billing rate and a first billing rate description associated with the first real-time, cost-per-unit-time billing rate for an in-progress telephone call of a wireless telephone, transmitting the determined first real-time, cost-per-unit-time billing rate and the first billing rate description to the wireless telephone for display of the first real-time, cost-per-unit-time billing rate and the first billing rate description on a display of the wireless telephone during the in-progress telephone call, and transmitting a warning message to the wireless telephone for display on the display of the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 1. In contrast to claim 1, Granberg discloses Advice of Charge (AoC) parameters at a control point 11 or 52 and sending the AoC parameters from the control point 11 or 52 to a mobile station 18 or 74. See Granberg, Figs. 1-5. The mobile station 18 or 74 receives the AoC parameters and determines or calculates a prospective cost of service for a call and calculates an

accumulated cost during the call based on the AoC parameters. The cost of service and/or the accumulated cost are displayed on a display 30. *See* Granberg, col. 5, lines 18-25 and lines 30-37. A set of E-parameters may be sent to the mobile station 18 or 74 as AoC parameters. The E-parameters may be configured as a series of seven tables: E1 – units per interval table; E2 – seconds per interval table; E3 – scaling factor table; E4 – unit increment table; E5 – units per data interval table; E6 – segments per data interval table; and E7 – initial seconds per interval table. *See* Granberg, col. 8, lines 3-9. Thus, the E-parameters of Granberg do not disclose transmitting a warning message to the wireless telephone for display on the display of the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 1.

In addition, the cited portions of Benco do not disclose or suggest this feature. Instead, Benco discloses determining if a mobile station (“MS”) is roaming while the MS is located in a current geographic area and determining if a roaming charge applies based on the current geographic area. *See* Benco, col. 3, lines 34-41. Upon determining that the roaming charge rate applies to the MS, a roaming charge rate is communicated to the MS such that the roaming charge rate is displayed on a display associated with the MS while the MS is located in the current geographic area. *See* Benco, col. 3, lines 48-62. In contrast to claim 1, Benco does not disclose transmitting a warning message to the wireless telephone for display on the display of the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 1. Rather, Benco is directed to providing a roaming rate regardless of any subscriber-set billing threshold and displays only the roaming rate. *See* Benco, col. 4, lines 30-31. Therefore, the cited portions of Granberg and Benco, separately or in combination, do not disclose or suggest at least one element of claim 1. Hence, claim 1 is allowable over the cited portions of Granberg and Benco.

Claims 2-4, 6 and 7 depend from claim 1, which Applicants have shown to be allowable. Therefore, claims 2-4, 6 and 7 are also allowable, at least by virtue of their dependence from allowable claim 1.

Further, the dependent claims include additional features that are not disclosed by the cited references. For example, the cited portions of Granberg and Benco do not disclose or

suggest transmitting the first real-time, cost-per-unit-time billing rate and the first billing rate description from a remote node to the wireless telephone during the in-progress telephone call, as in claim 7. The Office asserts that column 4, lines 28-32 of Benco discloses this feature. *See* Office action, page 10. Instead, the cited portions of Benco disclose a “wireless network” rather than a remote node as in claim 7. For this additional reason, claim 7 is allowable.

B. Claims 9-12 and 14

The cited portions of Granberg and Benco, separately or in combination, fail to disclose or suggest the specific combination of claim 9. For example, Granberg and Benco do not disclose a receiver to receive a first real-time, cost-per-unit-time billing rate and a first billing rate description associated with the first real-time, cost-per-unit-time billing rate for an in-progress telephone call, a display to display the first real-time, cost-per-unit-time billing rate and the first billing rate description during the in-progress telephone call, and the display to display a warning message received in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 9. In contrast to claim 9, the cited portions of Granberg do not teach or suggest that its AoC parameters include a parameter representing a warning message that is associated with a billing plan. Granberg’s AoC parameters (*e.g.*, E-parameters) are numeric and are used by the mobile stations 18 or 74 to calculate and display a call charge and/or accumulated charge for a call. *See* Granberg, col. 5, lines 66 – col. 7, line 2; col. 7, line 64 – col. 8, line 11. Thus, the E-parameters of Granberg do not disclose to display a warning message received in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 9.

In addition, the cited portions of Benco do not disclose or suggest this feature. As explained above, Benco discloses determining if a mobile station (“MS”) is roaming while the MS is located in a current geographic area and determining if a roaming charge applies based on the current geographic area. *See* Benco, col. 3, lines 34-41. Upon determining that the roaming charge rate applies to the MS, a roaming charge rate is communicated to the MS such that the roaming charge rate is displayed associated with the MS while the MS is located in the current geographic area. *See* Benco, col. 3, lines 48-62. However, Benco does not disclose to display a warning message received in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 9. Instead, Benco is directed to providing a

roaming rate regardless of any subscriber-set billing threshold and displays only the roaming rate. *See* Benco, col. 4, lines 30-31. Therefore, the cited portions of Granberg and Benco, separately or in combination, do not disclose or suggest at least one element of claim 9. Hence, claim 9 is allowable over the cited portions of Granberg and Benco.

Claims 10-12 and 14 depend from claim 9, which Applicants have shown to be allowable. Therefore, claims 10-12 and 14 are also allowable, at least by virtue of their dependence from allowable claim 9.

C. Claims 23-26

The cited portions of Granberg and Benco, separately or in combination, fail to disclose or suggest the specific combination of claim 23. For example, Granberg and Benco do not disclose a message generator to generate a first message having data that indicates a first real-time, cost-per-unit-time billing rate and a first billing rate description to a wireless telephone during an in-progress telephone call and the first message having a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold billing condition, as in claim 23. In contrast to claim 23, the cited portions of Granberg do not teach or suggest that its AoC parameters include a parameter representing a warning message that is associated with a billing plan. As explained above, Granberg's AoC parameters (*e.g.*, E-parameters) are numeric and are used by the mobile stations 18 or 74 to calculate and display a call charge and/or accumulated charge for a call. *See* Granberg, col. 5, lines 66 – col. 7, line 2; col. 7, line 64 – col. 8, line 11. Thus, the E-parameters of Granberg do not disclose to display a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold billing condition, as in claim 23.

In addition, the cited portions of Benco do not disclose or suggest this feature. Instead, Benco discloses determining if a mobile station (“MS”) is roaming while the MS is located in a current geographic area and determining if a roaming charge applies based on the current geographic area. *See* Benco, col. 3, lines 34-41. Upon determining that the roaming charge rate applies to the MS, a roaming charge rate is communicated to the MS such that the roaming charge rate is displayed associated with the MS while the MS is located in the current geographic area. *See* Benco, col. 3, lines 48-62. However, Benco does not disclose to display a warning

message when the in-progress telephone call exceeds at least one subscriber-set threshold billing condition, as in claim 23. Instead, Benco is directed to providing a roaming rate regardless of any subscriber-set threshold of a billing plan and displays only the roaming rate. *See* Benco, col. 4, lines 30-31. Therefore, the cited portions of Granberg and Benco, separately or in combination, do not disclose or suggest at least one element of claim 23. Hence, claim 23 is allowable over the cited portions of Granberg and Benco.

Claims 24-26 depend from claim 23, which Applicants have shown to be allowable. Therefore, claims 24-26 are also allowable, at least by virtue of their dependence from allowable claim 23.

D. Claims 28-31

The cited portions of Granberg and Benco, separately or in combination, fail to disclose or suggest the specific combination of claim 28. For example, Granberg and Benco do not disclose receiving at a wireless telephone a first real-time, cost-per-unit-time billing rate and a first billing rate description associated with the first real-time, cost-per-unit-time billing rate for an in-progress telephone call via the wireless telephone, displaying the first real-time, cost-per-unit-time billing rate and the first billing rate description on a display of the wireless telephone during the in-progress telephone call, and receiving at the wireless telephone a warning message for display on the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 28. As explained above, the cited portions of Granberg do not teach or suggest that its AoC parameters include a parameter representing a warning message that is associated with a billing plan. Granberg's AoC parameters (*e.g.*, E-parameters) are numeric and are used by the mobile stations 18 or 74 to calculate and display a call charge and/or accumulated charge for a call. *See* Granberg, col. 5, lines 66 – col. 7, line 2; col. 7, line 64 – col. 8, line 11. Thus, the E-parameters of Granberg do not disclose to display a warning message for display on the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 28.

The cited portions of Benco do not disclose or suggest this feature. As explained above, Benco discloses determining if a mobile station (“MS”) is roaming while the MS is located in a

current geographic area and determining if a roaming charge applies based on the current geographic area. *See* Benco, col. 3, lines 34-41. Upon determining that the roaming charge rate applies to the MS, a roaming charge rate is communicated to the MS such that the roaming charge rate is displayed associated with the MS while the MS is located in the current geographic area. *See* Benco, col. 3, lines 48-62. However, Benco does not disclose to display a warning message for display on the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition, as in claim 28. Benco is directed to providing a roaming rate regardless of any subscriber-set threshold of a billing plan and displays only the roaming rate. *See* Benco, col. 4, lines 30-31. Therefore, the cited portions of Granberg and Benco, separately or in combination, do not disclose or suggest at least one element of claim 28. Hence, claim 28 is allowable over the cited portions of Granberg and Benco.

Claims 29-31 depend from claim 28, which Applicants have shown to be allowable. Therefore, claims 29-31 are also allowable, at least by virtue of their dependence from allowable claim 28.

III. Claim 27 Is Allowable

The Office has rejected claim 27, at paragraph 6 of the Office Action under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,195,543 (“Granberg”) in view of U.S. Patent No. 7,068,997 (“Benco”), and further in view of U.S. Application No. 2005/0032505 (“Himelhoch”). Applicants respectfully traverse the rejections.

Claim 27 depends from claim 23. Granberg, Benco, and Himelhoch, individually or in combination, fail to disclose or suggest the specific combination of claim 23. For example, the cited portions of Granberg, Benco, or Himelhoch, individually or in combination, do not disclose or suggest a message generator to generate a first message having a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold billing condition, as in claim 23. Granberg discloses that a mobile station receives the Advice of Charge (AoC) parameters from the serving switching node and determines a prospective cost associated with the call and displays that cost to the mobile subscriber. *See* Granberg, Abstract. Benco discloses displaying a roaming charge rate on a mobile station in a wireless network. *See* Benco, Abstract.

Himelhoch discloses inputting an initial start time for a repeating time cycle of a calling plan; inputting a time period for the repeating time cycle; providing a designated amount of time for a first category of time in the calling plan for the repeating time cycle; monitoring phone usage of the first category of time; and, displaying an indication of one of an amount of time used of the designated amount of time for the first category of time and an amount of time remaining of the designated amount of time for the first category of time in a current repeating time cycle. *See* Himelhoch, Abstract. However, Granberg, Benco, and Himelhoch, individually or in combination, fail to disclose or suggest a message generator to generate a first message having a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold billing condition, as in claim 23. Accordingly, claim 23 is allowable.

Further, when considered as a whole, Granberg, Benco, and Himelhoch cannot properly be combined. Granberg teaches away from Benco. Granberg discloses that the mobile station receives the Advice of Charge (AoC) parameters from the serving switching node and determines a prospective cost and displays that cost. *See* Granberg, Abstract. Thus, in Granberg, the mobile station determines the prospective cost. In contrast, Benco discloses that “determining a roaming charge will be incurred ... communicating a roaming charge rate associated with the roaming charge to the mobile station.” *See* Benco, Abstract. Thus, in Benco, the roaming charge is determined and then communicated to the mobile station. In addition, the resulting combination of Granberg and Benco is inoperable. For example, in the resulting combination, the Office has not explained whether the mobile station determines a prospective cost as disclosed by Granberg or whether a different entity determines the cost and communicates the cost to the mobile station as disclosed by Benco. Thus, the resulting combination of Granberg and Benco is inoperable, rendering the combination of Granberg, Benco, and Himelhoch inoperable. Applicants respectfully submit that the Office is using impermissible hindsight and selecting specific components of the references without considering the references as a whole. “It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.” *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.* 796 F.2d 443,

230 USPQ 416 (Fed. Cir. 1986). Thus, the asserted combination is improper. For at least this additional reason, claim 27 is allowable.

CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the cited references applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

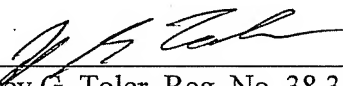
Any changes to the claims in this response, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date


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